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PATENT APPLICATION

ATTORNEY DOCKET NO. 10003896-1

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Quintin T. Phillips

Confirmation No.: 2163

Application No.: 09/851,038

Examiner: Thierry L. Pham

Filing Date: 05/07/2001

Group Art Unit: 2625

Title: System and method for adjusting color gamut based on printer consumable condition

Mail Stop Appeal Brief - Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF REPLY BRIEF

Transmitted herewith is the Reply Brief with respect to the Examiner's Answer mailed on Nov. 17, 2006

This Reply Brief is being filed pursuant to 37 CFR 1.193(b) within two months of the date of the Examiner's Answer.

(Note: Extensions of time are not allowed under 37 CFR 1.136(a))

(Note: Failure to file a Reply Brief will result in dismissal of the Appeal as to the claims made subject to an expressly stated new ground rejection.)

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Respectfully submitted,

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Reply Brief dated January 17, 2007
Docket No. 10003896-1

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)	Examiner: Thierry L. Pham
Quintin T. Phillips)	
)	Art Unit: 2624
Serial No.: 09/851,038)	
)	
Filed: May 7, 2001)	
)	
For: SYSTEM AND METHODS FOR)	
ADJUSTING COLOR GAMUT BASED)	
ON PRINTER CONSUMABLE CONDITION))	
)	
Date of Examiner's Answer:)	Attorney Docket No.:
November 17, 2006)	10003896-1
)	
)	

January 17, 2007

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF under 37 CFR §41.41

Dear Sir:

This Reply Brief is timely provided within two months from the mailing date of the Examiner's Answer dated November 17, 2006.

CERTIFICATE OF FACSIMILE

Date of Deposit: January 17, 2007

I hereby certify that these papers are being transmitted to The Patent and Trademark Office facsimile number (571) 273-8300 on January 17, 2007.


Peter Kruguljac

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Reply

In response to the Examiner's Answer, dated November 17, 2006, Appellant respectfully submits the following reply as permitted under 37 CFR §41.41(a)(1). The Examiner's Answer contained no new grounds of rejection and this response contains no new amendment, affidavit or other evidence. The following sections address the Examiner's Answer in order by topic as they appear in the Examiner's Answer starting on page 9 and section "(7) Response to Argument."

I. 35 U.S.C. §112, first paragraph rejection

The 35 U.S.C. §112, first paragraph rejection of claim 1 has been withdrawn.

II. Claim 1

With regard to the claim term "alternate color scheme," the Examiner's Answer at the top of page 10 states that "Nowhere within claim 1 indicates [sic] color scheme is more than just a single color of ink." Accordingly, the rejections have been based on teachings of an interpretation that a single color is claimed. Appellant respectfully submits that claim 1 recites the term "an alternate color scheme." Claim 1 does not recite the term "an alternate color." The limitation of "scheme" cannot be ignored from the claims and the references must show the claimed method including an "alternate color scheme." The ordinary meaning of "a color scheme" does not mean "a single color."

Regarding the Akiyama reference, the Examiner's Answer points to the word "gray" that appears in a message screen in Figure 23 of Akiyama as representing an alternate color scheme. Figure 23 shows a list of four single colors; cyan, magenta, yellow, and gray. Appellant notes that Figure 23 states that the gray color is "a mixture of three colors." One of ordinary skill in the art understands that certain colors are formed by mixing other colors. The result is a single color, not a color scheme of multiple colors. For example, purple is formed by mixing blue and red, yet purple is a single color. Green is formed by mixing blue

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and yellow, yet green is a single color. In Akiyama figure 23, gray is formed by mixing three colors, and gray is a single color, not a color scheme.

Therefore, Akiyama fails to support and teach the proposed interpretation. Furthermore, the printed text of the word "gray" in the menu of figure 23 fails to teach the claim language of suggesting alternate color schemes, displaying a visual representation of the print job without the affected toner color, and fails to teach where the visual representation can be displayed with a selected alternate color scheme. Accordingly, Akiyama fails to teach the elements it was cited for and fails to support the obviousness rejection.

Kurachi Reference

Page 10, first paragraph of the Examiner's Answer then addresses the Kurachi reference, and explains:

Kurachi teaches a method in response to receiving the notification from printer device, the host computer displays a visual representation of the print job without the affected toner color (printer device 3 transmits a rough image (fig.5) representing a print job to be displayed on a host computer 1, col. 2, lines 25-32).

Appellant repeats that nowhere has it been shown that Kurachi "receives notification from the print device that a non-optimal condition exists with one or more consumables" or performs any actions "in response to receiving the notification." Therefore, the claim language of "in response to receiving the notification...displaying a visual representation of the print job without the affected toner color" is not taught or suggested. Kurachi makes no decisions based on non-optimal toner conditions and does not teach a method that handles or performs actions in response to non-optimal toner conditions.

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The Examiner's Answer continues the interpretation of Kurachi on page 10. The interpretation characterizes the "rough image" of Kurachi as being "without the affected toner color." The Answer states:

Rough image (fig. 5) is a "visual representation" of a print job... It represents the print job with reduced size or simplified version of the image without the affected toner color (e.g. rough image is known for representing an actual image in grayscale (e.g. black or white) or any other colors regardless of its original image color...) (emphasis added).

Since Kurachi makes no mention of determining when a non-optimal toner color condition exists, and fails to teach a process that receives notification of such a condition, and further fails to take actions in response to such a notification, the inserted interpretation of "without the affected toner color" has no basis in fact. Repeating what was stated in Appellant's Appeal Brief, Kurachi describes the "rough image" as a reduced size of the image and/or changing the shape of lines (Kurachi, Summary of the Invention, column 2, lines 59-63, and column 3, lines 58-64). Furthermore, Kurachi makes no reference to "gray" or "grayscale." The Examiner's use of the term "grayscale" is purely speculation and is not supported by Kurachi's description of rough image. Appellant further finds no reference to the word "color" in Kurachi. As previously stated, there is no teaching or suggestion that the rough image is a visual representation of a print job without an affected toner color.

The Examiner's Answer continues on page 10 with an example attempting to support the expanded interpretation of "without the affected toner color." The example states:

For example, affected toner color is red, while without affected toner/color (e.g. rough image) is in grayscale. In other words, color of original image is displayed in red, while color of rough image is displayed in black and white or any color other than red..."

The example is flawed and unpersuasive. Suppose "black" is the affected color. Using the Examiner's analogy, Kurachi would display a rough image in black and white, thus still using the affected color. This is because Kurachi is not designed to handle these conditions. What about displaying "any color other than black," which appears to be an

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unconditional design alternative used in the Examiner's example. This question and others like it cannot be answered based on the teachings of Kurachi because Kurachi is not configured to handle affected colors and has no notion of "an affected color." It is not the purpose of Kurachi to handle affected colors, it is not the intent, and one of ordinary skill in the art would not interpret Kurachi as proposed by the Examiner. The examples simply attempt to create situations that might accidentally resemble the claimed invention because the actual claimed invention cannot be shown by the reference. The reasoning proposed in the rejection surely looks like hindsight reconstruction that uses the present application as a blueprint. Without looking at the applicant's disclosure, the proposed interpretation of Kurachi would not be contemplated from reading Kurachi.

Appellant respectfully submits that the examples and analogies of the rejection fail to cure the fundamental defect in Kurachi: Kurachi fails to teach or suggest "receiving notification from the print device that a non-optimal condition exists with one or more consumables" and fails to perform any action "in response to receiving the notification" including "displaying a visual representation of the print job without the affected toner color" as recited in claim 1. Therefore, a prima facie obviousness rejection has not been established by using Kurachi with the combined references and the rejection cannot stand.

The remaining portions of the Examiner's response appears to be consistent with the positions presented in the Final Office Action. Accordingly, Appellant maintains the arguments of Appellant's Appeal Brief. For the same reasons, the cited and combined references fail to teach or suggest each and every limitation of the present claims and fail to establish a prima facie obviousness rejection. The rejections should be reversed.

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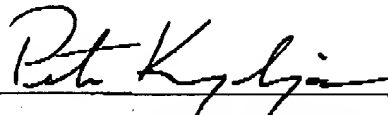
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Conclusion

Appellant respectfully maintains all previous arguments, which show the deficiencies in the rejections. Accordingly, Appellant respectfully requests that the Board of Appeals overturn all rejections and allow all pending claims.

Respectfully submitted,

Date JAN. 17, 2007



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